

March 2008 CREP Training Questions and Answers

Q1- What is the effective date of the CREP Expansion and its changes?

A1- May 1, 2008, is the effective date for ALL changes to the previous agreement.

Q2- What is the effective date of the revised maintenance rates (\$2.00)?

A2- April 11, 2008, per Notice CRP-588.

Q3- How should SWCD Boards of Supervisors in new CREP counties be informed about CREP?

A3- It is the expectation that District Conservationists and/or SWCD staff will provide a briefing for each SWCD Board in the new CREP counties, outlining the program purpose, producer and land eligibility requirements, eligible practices and general practice requirements, payments, and roles for each agency. It is encouraged that the FSA County Committee be invited to attend and participate in this briefing. DSWC staff are available upon request to assist in these briefings to provide information on easement issues. Each county is encouraged to develop a strategy to effectively inform producers about CREP opportunities. All offices should keep in mind that CREP offers a great opportunity to apply conservation on small or limited resource farms that may have difficulty competing for some programs.

Q4- Can a farm be reconstituted in order to circumvent the “more than 9.9 acres” easement rule?

A4- Basically No. A farm division is the dividing of a farm into 2 or more farms because of a change in ownership or operation. If a farm is under common ownership and the operator does not share in the CRP-1, do not divide the farm. Divide farms that enter into CRP-1's only if either of the following applies: 1) the land no longer meets the definition of a farm (same ownership, same operator); 2) one or more owners refuse to sign the CRP-1. Ref. 2-CM (Rev. 6), Farm Reconstitutions.

Q5- Who is responsible for determining qualifying water source for land eligibility?

A5- FSA COC. Handbook 2-CRP (Rev.4) paragraphs 111,112,137,et al, requires FSA COC to make eligibility determinations. One such determination is basic land eligibility. Paragraph 112 and Exhibit 9 require offered land to be immediately adjacent and parallel to a seasonal or perennial stream or a permanent water body.

Q6- If there is an existing strip of trees along a perennial or seasonal stream, is the cropland or marginal pastureland still considered to be adjacent to the qualifying water?

A6- Existing strips of vegetation along qualifying water may be included in the enrolled area for any of the Continuous CRP or CREP practices, as long as the existing vegetation is not considered technically adequate to meet the practice purpose. It is the responsibility of NRCS to determine and document that there is an existing resource concern that will be mitigated or addressed by the implementation of a Continuous CRP or CREP practice.

For buffer practices, if there is an existing filter strip or riparian forest buffer wide enough to meet the FOTG standard for the practice, then the practice is not needed to solve an existing resource concern. 2-CRP Exhibit 9 specifically states that NRCS must determine that the existing trees are not functioning as an existing buffer for CP22 eligibility. It is important for planners to remember that all the CREP-related practice purposes should be considered in this determination for buffer practices, including riparian wildlife if applicable.

For non-buffer practices, the purposes are to establish or restore identified vegetative communities. Consequently, any eligible land within the Program-specified maximum width zone identified for the specific practice is considered adjacent to the qualifying water, regardless of the width of the existing trees.

Q7- How is the minimum width of a CP 21 and CP22 determined?

A7- The applicable FOTG standards are used to determine the minimum adequate width for all practices. For a filter strip (FOTG 393), the minimum width to address particulates in runoff (sediment, soil bound nutrients, etc.) is computed by using the ratio of source area to filtering area as defined in the standard. An additional 30 feet in width is required when needed to address dissolved contaminants in runoff. Additional width of appropriate vegetation on the down slope side of the filter strip may be needed to address riparian and aquatic wildlife habitat. Per the standard, and CRP policy, the filter strip shall never be less than 20 feet in width.

Similarly, the minimum width for a riparian forest buffer (391) is established by zone. Minimum for zone 1 is 15 feet. Minimum for zone 2 is 20 feet. Because filtering runoff should always be a concern in CREP, the minimum width of zone 3 (perennial grass) is 20 feet. This means the minimum width for most CREP riparian buffers is 55 feet. If the client has specific riparian wildlife objectives, increasing the minimum width to include the entire flood prone area, up to 100 feet, may be needed. For both filter strips and riparian forest buffers, the maximum width on buffer practices is determined by CREP policy.

Q8- What land uses can be included in the determination of the 1:1 ratio for CREP practices CP21 and CP22?

A8- Handbook 2-CRP(Rev.4) NC Exhibit 9, NC Pages 80 and 91, provides additional requirements for CREP practices CP21 and CP22. NRCS cannot determine that a buffer practice (CP21 or CP22) is needed unless it buffers a pollutant source. The policy states that ratio of remaining agricultural land that flows through the buffer must be greater than or equal to 1:1. Because CP21 and CP22 are designed as pollutant trapping practices, they cannot generally encompass whole fields and must meet width requirements. If interested persons would like to enroll more land than the 1:1 limits allow, alternative practices, such as, CP3, CP3A, and CP31 should be considered.

Q9- How does the planner document that hydrologic restoration was considered for CP-22 practices? How does the planner analyze this?

A9- A one-page form is included on the CREP website that allows the planner to document that hydrologic restoration was considered in the planning process. Planners should understand that taking steps to restore the hydrology in riparian forest buffers is a requirement of CREP, and is accomplished by replacing perforated drainage tile with solid tile through the buffer, ensuring surface water flow through the buffer is converted to sheet flow to the maximum extent possible (rather than allowing channelized flow to pass through the buffer) and installing water table control structures on open ditches and/or subsurface tile that bisect the buffer to the extent that non-enrolled areas are not affected.

Q10- Can natural regeneration be used on CP23 and CP23A?

A10- Planners should refer to and correctly apply the vegetation criteria indicated in the wetland restoration practice standard in NRCS NC-FOTG. That practice requires identification of an appropriate native plant community that the site will be managed to conserve. The practice standard also indicates when and where use of natural regeneration is appropriate. Although the use of natural regeneration is not prohibited, planners should encourage participants to plant tree and shrub species that will be slow to establish without planting because the costs of planting will be fully supported by the program's cost-sharing.

Q11- Can a portion of a CP23 or CP23A enrollment be used as open water? If so, how much of the enrollment can be water?

A11- 2-CRP, Exhibit 9 contains practice requirements that indicate the program is to "limit C/S to the minimum work and materials necessary to develop or restore the wetland hydrology, and establish an adequate cover to improve environmental benefits". Construction of ponds, impoundments, sloughs and swales is not authorized for CP23 or CP23A where those features do not naturally occur on a nearby comparison site. Bands and pockets of open water or marsh that occur as a by-product of restoring hydrology are not in conflict with the CRP practices, or the FOTG's wetland restoration standard.

Q12- Are there special narratives or job sheets required for the conservation plan supporting a CREP contract?

A12- The CREP planning matrix has corresponding FOTG practices and suggested narratives for each of the CREP practices. There is also a CREP narrative provided and accessible in Toolkit for easement management that provides management requirements for MIZ's. See the question below on incorporating easement requirements into the conservation plan.

Q13- Can NRCS conservation plans simply reference the NC DFR tree planting plan?

A13- Generally no. NRCS has the technical responsibility to ensure that the conservation plan meets both NRCS technical requirements and FSA's CREP programmatic requirements. It is expected that the planner will translate the DFR's recommendations for the site preparation, tree planting, and release treatments if needed onto the NRCS job sheet for CP22, and CP23/23A practices, ensuring that the other CREP requirements not associated with tree establishment are included as needed. For other practices that generally involve only tree establishment, such as CP3/3A, CP31, and CP36, referencing

the DFR tree planting plan in the narrative is allowed as a substitute for a separate job sheet, as long as NRCS has reviewed the DFR plan to verify that it meets CREP programmatic requirements, and has translated DFR plan requirements for site preparation, tree planting, and release treatments into the appropriate NRCS practices in the conservation plan and Schedule of Operations.

Q14- How are the special limitations associated with an easement included in the conservation plan?

A14- There is a CREP easement management narrative available through Customer Service Toolkit that provides the appropriate use limitations. This narrative or similar information should be included in the conservation plan when the conservation plan supports a CREP easement.

Q15- What parts of the conservation plan should be provided to FSA for CREP or Continuous CRP?

A15- FSA should be provided the following documents: (1) conservation plan map, with legend, (2) soils map with legend, (3) record of decisions (practices and narratives, with extents and year planned, by field), (4) all applicable job sheets or practice specifications, including practice O&M, (5) copy of DFR plan if applicable, (6) Schedule of Operations (AD-1155), and (7) NC-CPA-52.

A copy of items 1 thru 4 should also be provided back to the NCDNR.

A copy of items 1 thru 6 should be provided to the client.

Q16- Who is responsible for environmental compliance for CREP/CRP?

A16- NRCS will complete the NC-CPA-052 in conjunction with technical planning for CREP and CRP. FSA, as the Lead Agency for CRP, is ultimately responsible for environmental (NEPA) compliance and must address any unresolved issues divulged in the CPA-052. The CED will review the CPA-052, paying close attention to the Cultural Resources and Endangered & Threatened Species sections for unresolved issues that may require follow-up or consultation with other state or federal agencies. FSA, as the Lead Agency, is responsible for any consultation.

FSA's responsibilities to consult with SHPO are governed by the list of undertakings in Exhibit 30 of 1-EQ. Some practices, listed as category 3 "undertakings" in Exhibit 30, i.e. CP23, & CP23A (CP8A & CP9 for CRP), will require consultation early on, as soon as the CREP/CRP area is determined. Other practices involving tree planting (not an "undertaking") may or may not require consultation depending on the prescribed site preparation method.

Per a programmatic agreement with SHPO, informal consultation will be conducted when scalping is the site prep component for tree planting. Upon receipt of a Tree Planting Plan or Forestry Management Plan from NCDNR including the (SF) scalping/furrowing component, CED's shall email a U.S.G.S. Topographic map with the proposed CREP/CRP area marked to Dolores.hall@ncmail.net for a determination of any known

cultural resource sites affected. Topo maps may be generated from ArcMap or obtained from NRCS or <http://gis.enr.state.nc.us/topoviewer>.

FSA must resolve all issues and concur by signing the NC-CPA-052 prior to approval of the CRP-1. Contact the State Environmental Coordinator for assistance.

Q17- Is a FSA POA (FSA-211) sufficient authorization to sign Conservation Plan and Schedule of Operations?

A17- Yes.

Q18- What are signature requirements for CRP-1?

A18- Paragraph 198 in 2-CRP(Rev.4), requires all owners, operators, and tenants who have an interest in the acreage being offered to sign CRP-1, including owners with zero share in CRP annual rental payments. Owners are not required to sign CRP-1 if the land being offered is a farm under multiple ownership and the owner's name is not on the deed to the portion of land being offered on CRP-1. Paragraph 82 provides person eligibility, including ownership requirements.

Q19- If a current CREP easement has not been closed can they utilize the new payment State Incentive Payment Structure?

A19- Yes, as long as the CRP-1 has been approved by the FSA County Committee then the landowner can choose which payment option would be more attractive for them, in hopes more would see the greater incentive for permanent easements.

Q20- Can a participant continue with a CREP contract if the easement can not be closed?

A20- If a participant wants or was required to enter into an easement (30 or permanent) but a clear title cannot be verified pursuant to NC CREP title searching standards, the contract cannot continue as a CREP contract. The COC should determine if eligibility requirements have been met and if CRP-1 should be terminated or revised to become a regular/continuous CRP contract with the annual rental payments recalculated based on the SRR's without the CREP incentives of 70 or 100 percent.

Q21- Who is eligible to receive CRP C/S payments?

A21- CRP c/s shall be paid ONLY to participant(s) who are a signatory to the CRP-1 (2-CRP, par. 441, par. 496). An Ineligible Contributor is anyone that is NOT a signatory to the CRP-1 (par. 490). Authorized payments may be assigned by CRP-1 participant(s).

Q22- When changes are made to an existing CREP or Cont CRP contract, what documentation is required?

A22- A notice that describes the required documentation for CREP and Continuous CRP modifications was distributed during the March 2008 training, and is available on the CREP website.

Q23- Once the landowners have signed the CREP-State Contract, where do I need to mail?

A23-Please mail to: DENR- Washington Regional Office
Division of Soil and Water Conservation
Attn: Natalie Jones
943 Washington Square Mall
Washington, NC 27889

Q24-How will the CREP Earmark allocation from the Soil and Water Commission affect parameter calculation in regards to future allocations?

A24-Districts would not have points deducted on their parameter calculation for not encumbering the funds requested for a given fiscal year. Funds that were not encumbered can be returned to the collective CREP Earmark for reallocation at a later date. However points may be deducted if funds were encumbered and then contracts were canceled.

Q25- Are Christmas trees and nursery operations considered cropland or marginal pastureland for CREP and Continuous CRP?

A25- FSA in North Carolina has been working with their national office to obtain a formal decision. Counties will be notified when a formal decision has been made.